

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6642

BILL NUMBER: HB 1311

NOTE PREPARED: Mar 10, 2011

BILL AMENDED: Mar 10, 2011

SUBJECT: Numerous Changes to Planning and Zoning Law.

FIRST AUTHOR: Rep. Truitt

FIRST SPONSOR: Sen. Wyss

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Judicial Review of Zoning Decisions*- The bill eliminates review of zoning decisions by certiorari, and establishes a judicial review procedure.

Vacation of Plat- The bill provides procedures for vacation of a plat, including any recorded covenants. The bill allows a plan commission to adopt a rule to limit further consideration for up to one year after its disapproval of a plat or vacation request.

Grant of Waiver- The bill allows a plan commission (or plat committee acting in its behalf) to: (1) grant waivers from the subdivision control ordinance; and (2) allow or require a commitment to be made as a condition of granting a waiver.

Plan Commission Changes- The bill makes changes regarding: (1) qualifications of citizen members of plan commissions and boards of zoning appeals; (2) appointment of alternate members to all plan commissions (current law allows only an area plan commission to appoint alternate members); (3) disqualification of plan commission and board of zoning appeals members due to financial interest or bias; (4) publication of the zoning ordinance; and (5) commitments and conditions.

Other Changes- The bill makes other changes to the planning and zoning law.

Repealers- The bill repeals superseded statutes concerning vacation of plats, commitments, and writ of certiorari.

Effective Date: July 1, 2011.

Explanation of State Expenditures:

Explanation of State Revenues: *Judicial Review of Zoning Decisions*- There may be an increase in civil actions filed due to this provision. The potential increase in the number of civil actions that could occur is indeterminable.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Judicial Review of Zoning Decisions*- Boards of zoning appeals would be required to provide board records to petitioners upon written request. These records would be transmitted to the appropriate court by the petitioner. A board of zoning appeals would be able to charge petitioners for the costs associated with preparing copies and transcripts for transmittal to courts. Fees for the copies should offset administrative costs associated with preparing records for requests by petitioners.

Vacation of Plat- Plan commissions would be required to adopt rules prescribing procedures for setting hearing dates of petitions. Any cost involved with further notice of dates would be borne by the petitioner. The commission or committee would hear the petitions and either approve or disapprove the request. The plan commission or plat committee would provide copies of their decisions to the county recorder. Any fiscal impact resulting from these provisions is indeterminable and directly related to the number of hearings conducted. Plan commissions would be granted greater flexibility by local rule to allow up to a year to pass before an unsuccessful vacation request on the same property may be revisited by the plan commission.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected:

Local Agencies Affected: Boards of zoning appeals; plan commissions; plat committees; trial courts, city and town courts; Metropolitan Development Commission.

Information Sources:

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